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January 6, 1995

William F. Caton, Acting Secretary
Federal Communications Commission
1919 M Street, N. W.
Washington, D. C. 20554

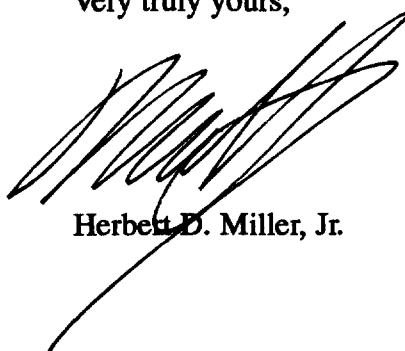
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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

Dear Mr. Caton:

Transmitted herewith, on behalf of Telephone and Data Systems, Inc., a party to CC Docket No. 94-136, are its Comments on the Petition of Ellis Thompson Corporation for Leave to Amend its application.

In the event there are any questions concerning this matter, please communicate with this office.

Very truly yours,



Herbert D. Miller, Jr.

Enc.

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BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
Washington, D. C. 20554

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In re Application of

ELLIS THOMPSON CORPORATION

For facilities in the Domestic Public Cellular Radio
Telecommunications Service on Frequency Block
A in Market No. 134, Atlantic City, New Jersey.

CC Docket No. 94-136

To: Honorable Joseph Chachkin
Administrative Law Judge

COMMENTS ON PETITION FOR LEAVE TO AMEND

Telephone and Data Systems, Inc. (TDS), a party to the above captioned proceeding, files herewith, by its attorneys, its Comments on the Petition of Leave to Amend Application filed by The Ellis Thompson Corporation (ETC) on December 28, 1994.

By its December 28, 1994 Petition, and by a similar petition submitted on December 20, 1994, ETC seeks to amend its application to report the existence of an Exercise Agreement (December 20, 1994 Petition) and an Amendment to that Exercise Agreement (December 28, 1994 Petition), dated May 20, 1992 and October 6, 1992, respectively. TDS has no objection to the acceptance of either amendment, and agrees with ETC that both documents are required to be filed.

However, TDS does take exception to ETC's contention that its amendments are timely filed. ETC contends that neither document was

"required to be filed earlier because until the Commission's Memorandum Opinion and Order and Hearing Designation Order, FCC94-298, released November 28, 1994, ETC had a validly issued authorization to construct and operate the Atlantic City system. That decision rescinded ETC's authorization, and thereby returned its application to pending status." (ETC Petition, p. 2).

ETC is wrong. Both documents should have been submitted more than two years ago, pursuant to Section 1.65 of the Commission's Rules.

Under Section 1.65(a),

"Each applicant is responsible for the continuing accuracy and completeness of information furnished in a pending application or in Commission proceedings involving a pending application . . . For the purposes of this section, an application

is 'pending' before the Commission from the time it is accepted for filing by the Commission **until a Commission grant or denial of the application is no longer subject to reconsideration by the Commission or to review by any court.**" (Emphasis added).

Since the grant of ETC's application has never become "no longer subject to reconsideration by the Commission or to review by any court," Ellis Thompson, and thereafter ETC, have at all times since Ellis Thompson's selection as tentative selectee been required to comply with Section 1.65 (see Section 22.918(b)). The date on which the Commission designated the present hearing has nothing to do with the timeliness of ETC's amendments.

Therefore, TDS asks that if the Presiding Administrative Law Judge accepts the tendered ETC amendments, he not do so on the basis that either was timely filed.

Respectfully submitted,
Telephone and Data Systems, Inc.

By

/s/


Alan Y. Naftalin
Alan Y. Naftalin

By


/s/


Herbert D. Miller, Jr.
Herbert D. Miller, Jr.

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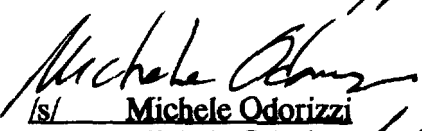
By

/s/


Alan N. Salpeter
Alan N. Salpeter

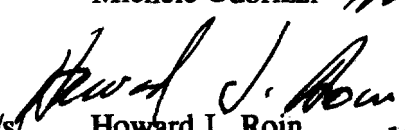
By

/s/


Michele Odorizzi
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By

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Howard J. Roin
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By

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Demetrious G. Metropoulos
Demetrious G. Metropoulos

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Its attorneys

January 6, 1995

Certificate of Service

I, Richard Massie, a secretary in the law firm of Koteen & Naftalin, hereby certify that I have this date sent copies of the foregoing to the following by First Class United States Mail, postage prepaid:

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* By hand

/s/


~~Richard Massie~~
Richard Massie

January 6, 1995